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JAN DOUGLAS ATLAS

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January 5, 2010

VIA CERTIFIED MAIL AND FACSIMILE

Mr. Irving H. Picard, Trustee
c/o Baker & Hostetler LLP
Attn: Claims Department
45 Rockefeller Plaza
New York, NY 10111

Re: Bankruptcy Case No. 08-1789 (BLR) / Opposition to Trustee's Denial of Claim Filed by Jane K. Mirande Revocable Trust / Claim No. 3612

Dear Mr. Picard:

This letter is in opposition to the Notice of Trustee's Determination of Claim dated December 8, 2009, denying the claim of Jane K. Mirande Revocable Trust ("Claimant") pursuant to the Securities Investor Protection Act, 15 U.S.C. 78aaa, *et seq.* ("SIPA").

SIPA "is remedial legislation. As such it should be construed liberally to effect its purpose." *In re First State Securities Corp.*, 34 B.R. 492, 496 (Fla. 1983) (quoting *Tcherepnin v. Knight,* 389 U.S. 332 (1967)). "The purpose is the protection of the insolvent brokers' customers." *Id.* at 496. In *Securities and Exchange Commission v. F. O. Baroff Co., Inc.*, 497 F.2d 280 (2d Cir. 1974) [hereinafter, "*F. O. Barroff Co.*"], the Second Circuit gave a detailed analysis of SIPA's legislative history and intent. *Id.* at 281. Specifically, the court stated that:

> [t]he object of that statute, and the function of the Securities Investor Protection Corporation (SIPC) it created, is to protect the public customers of securities dealers from suffering the consequences of financial instability in the brokerage industry...Once a broker or dealer is found to be on the brink of collapse or in danger of failing to meet its obligations to its customers, a trustee is appointed for liquidation of the business. The firmS [sic] clients are cushioned (within limits) from personal loss through a special fund collected by SIPC from all securities dealers registered under the 1934 Securities Exchange Act...But the Securities Investor Protection Act allows only those who meet its definition of a 'customer' to share in this assurance.

F. O. Baroff Co., 497 F.2d at 281. Citing the House of Representatives, the court went on to state that "[t]he primary purpose of [SIPA] is to provide protection for investors if the broker-dealer with whom they are doing business encounters financial troubles." *Id.* at 283. In furtherance of SIPA, SIPC, "an independent corporation established by Congress," was created, "to reinstill[] confidence in the securities markets" by "protect[ing] investors from the effects of chronic instability in the securities industry." *Massachusetts Financial Services, Inc. v. Securities Investor Protection Corp.*, 411 F. Supp. 411, 412-13 (D.C. Mass. 1976). SIPC's "prime responsibility [is] to establish…a substantial reserve fund which…provide[s] protection to investors in the event a brokerage firm collapse[s]." *Id.* at 413.

SIPA defines the term "customer" of a debtor as:

> **any person (including any person with whom the debtor deals as principal or agent) who has a claim on account of securities received, acquired, or held by the debtor in the ordinary course of its business as a broker or dealer from or for the securities accounts of such person for safekeeping, with a view to sale, to cover consummated sales, pursuant to purchases, as collateral security, or for purposes of effecting transfer.** The term "customer" includes any person who has a claim against the debtor arising out of sales or conversions of such securities, and any person who has deposited cash with the debtor for the purpose of purchasing securities…

15 U.S.C.A. § 78lll(2) (emphasis added).

The United States District Court for the Southern District of New York further discussed the definition of the term "customer" in *Securities and Exchange Commission v. Kenneth Bove & Co., Inc.*, 378 F. Supp. 697 (S.D.N.Y. 1974) [hereinafter "*Kenneth Bove & Co.*"]. The court found that in order to be considered a "customer" under SIPA, "the claimant must have entrusted his securities to the debtor in liquidation," and have been "on account of securities received, acquired, or held by the debtor." *Id.* at 699. Claims pursuant to SIPA are "grounded on possession of identifiable securities by the broker." *Id.* Under SIPA, "**the preferential protection is accorded to a person who can trace and identify the…funds in the hands of the stockbroker.**" *Id.* (emphasis added).

In this case, Claimant's funds are traceable and can be identified as being in the direct control of Bernard L. Madoff Investment Securities LLC. Claimant transferred and placed the amount of $500,000.00 (the "Investment") with Emerald Asset Advisors, LLC which purchased with the Investment a limited partnership interest in the Rye Select Broad Market Fund, LP ("Rye Fund") under the authority of the Rye Fund's General Partner, Tremont Partners, Inc. ("Tremont Partners"), a subsidiary of Tremont Group Holdings, Inc. Attached hereto are copies of supporting documents evidencing the Investment in the limited partnership interest (the "Securities"). Tremont Partners placed all of the assets of the Rye Fund with Bernard L. Madoff

Investment Securities LLC. The final account statement, attached hereto, reflects Securities owed to Claimant in the amount of $563,980.26. Claimant is clearly a "customer" under SIPA and should be afforded its protection. The fact that Claimant's funds were not given directly from Claimant to Bernard L. Madoff Investment Securities LLC is of no consequence. As an investor, Claimant should be protected from the effects of the instable securities industry and, more specifically, the collapse of Bernard L. Madoff Investment Securities LLC, in which Claimant's assets were invested through its agents, Emerald Asset Advisors, LLC, the Rye Fund, and Tremont Partners. To deny Claimant's claim would directly contravene the legislative intent of SIPA. Accordingly, Claimant respectfully requests that the denial of its claim be reversed; that its claim be granted; and that it be afforded the protection to which it is entitled pursuant to SIPA.

Sincerely,

Jan Douglas Atlas

JDA/cab
Enclosure
cc: United States Bankruptcy Court
for the Southern District of New York (by mail only)

Jane K. Mirande Revocable Trust c/o Mr. Richard Mirande

RYE
Investment Management
A Division of Tremont Group Holdings, Inc.

BNY ALTERNATIVE INVESTMENT
SERVICES, INC.
101 Barclay Street
20th Floor West
New York, New York 10286
USA

CLIENT STATEMENT

Ms. Pamela Palmer
Emerald Asset Advisors, LLC
2843 Executive Park Drive
Fort Lauderdale, FL 33327
USA

A/C Number: 00-1200-700015183
Period Beginning: 01-Nov-2008
Period Ending: 30-Nov-2008
Fax Number:
E-Mail: ppalmer@emeraldasset.com

This statement is being provided to you at the request of Jane K Mirande Revocable Trust

PERFORMANCE SUMMARY

Security	% Change	
	Period to Date	Year to Date
Rye Select Broad Market Fund, LP	1.73%	7.55%

PERIOD ACTIVITY

Security	Net Opening Capital	Contribution	Net Income / (Loss)	Withdrawals / Trans / ReReg	Net Closing Capital
Rye Select Broad Market Fund, LP	554,407.78	0.00	9,572.48	0.00	563,980.26
Totals	554,407.78	0.00	9,572.48	0.00	563,980.26

DISCLOSURE NOTES

- % Change results are Net of all fees.
- Year To Date change is based on Calendar Year which ends on December 31st.
- All values are in USD.
- This information is not intended to be used for tax reporting or planning.
- This information is unaudited. Audited statements are issued upon conclusion of the fiscal year end audit.
- The Fund's net asset value has been calculated on the basis of market value information with respect to the Fund's portfolio obtained from third parties, including independent pricing vendors, the Fund's manager and administrators of funds in which the Fund may have invested. BNY-AIS does not give any assurances with respect to the accuracy of such market value information.
- Past performance as described herein is not necessarily indicative of future results.
- The Bank of New York acts as custodian with respect to cash. With respect to the portfolio's investments, such investments have been and will continue to be custodied for the benefit of the portfolio at Bernard L. Madoff Investment Securities LLC, 885 Third Avenue, New York, NY, 10022.
- Additional information is available at www.ryeselectfunds.com.

INVESTOR INQUIRIES

Telephone: 212.815.4090 Facsimile: 212.644.6669 Email: AISOnline_NY@bankofny.com Web: www.fundadmin.com

Online Account Statements

TREMONT

Investor : Jane & Richard Mirande

Company Name :

Account Type : Trust

Address : Jane K. Mirande Revocable Trust
340 S. Us Highway 1
Apt. 501
Jupiter, FL 334777

Account Summary (Year-To-Date)

Statement Date: May, 31 2007

Portfolio Name	Value at May 31, 2007	Net Cont./With.(*1)	Net Return	Value at May 31, 2007(*2)	ROR(%)
Rye Select Broad Market Fund, L.P.	$0	$500,000	$4,561	$504,561	0.91
Relationship Total	$0	$500,000	$4,561	$504,561	

Current Activity

Portfolio Name	Value at May 01, 2007	Contributions	Withdrawals	Value at May 31, 2007(*3)
Rye Select Broad Market Fund, L.P.	$0	$500,000	$0	$504,561
Relationship Total	$0	$500,000	$0	$504,561

Important Note: All results shown on this statement are not considered final and are subject to adjustment pending the outcome of each fund's annual audit. Past Performance as described herein is not necessarily indicative of future results.

*1.The amount shown reflects the net amount contributed and/or withdrawn, as the case may be, taking into account all contributions and/or withdrawals made during the period.

*2.The above estimated value is net of all fees, expenses, and the performance incentive allocation year-to-date, if applicable.

*3.Value shown takes into account all contributions and withdrawals and the calculated return on the net invested amount for the period, less all fees, expenses and the performance incentive allocation year-to-date, if applicable.

Cash contained in the Rye Select Broad Market Fund, L.P. ("RSBMF") has been, and will continue to be, held at Bank of America, 1 Landmark Square, Stamford, CT 06901, in an account in the name of the RSBMF and over which Tremont Partners, Inc., the partnership's General Partner exercises authority and control.

With respect to the RSBMF investments, such investments have been, and will continue to be custodied for the benefit of the partnership at Bernard L. Madoff Securities LLC, 885 Third Avenue new York, New York 10022.

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INSTITUTIONAL

Wire Transfer Letter of Authorization

Investment Advisor ("IA") Information (This portion to be completed by IA.)

IA Firm Name (please print): EMERALD ASSET ADVISORS LLC

IA Master Account Number: 8962470 Service Team: IST 2

- **The wire transfer fee is $25. For foreign wires, contact your Investment Advisor for specific information required.**
- **Note: Distribution forms are required for retirement accounts. Call your Investment Advisor for the correct form.**

1. One-Time or Standing Instructions (Select A or B.)

A. (●) One-time $ 500,000.00
Amount to be Wired (in U.S. Dollars)

B. ( ) Standing Instructions Authorization (optional)

Please initial below only if you want your IA to initiate wire transfers to accounts of unlike registration. You may revoke this authorization by notifying Schwab. If more than one person is listed on the account, each account holder must initial the authorization granted below. (An X is not sufficient.)

Standing Instructions. I authorize Schwab to transfer funds from this account to the receiving bank name on this form at the direction of my IA. I have previously granted my IA disbursement authority on this Schwab account. I hereby acknowledge that this authority is effective regardless of any differences in registration between these two accounts.

Account Holder/Trustee/Custodian/Executor ______ Additional Account Holder/Co-Trustee/Co-Custodian/Co-Executor ______ $______ Amount Requested Today (in U.S. Dollars) $______ Maximum Amount for Future Wires (in U.S. Dollars) ______ Date Instructions Expire (mm/dd/yyyy)

2. Schwab Account Information

Richard Mirande Rev Trust
Account Holder Name(s) (as they appear on your statement)

1064-6081
Schwab Account Number

3. Receiving Bank Information (For examples, see Section 5.)

$ 500,000.00
Amount to Be Wired (in U.S. Dollars)

If Foreign Wire in Currency Other Than U.S. Dollars, Indicate Currency Type and Amount

Bank of New York
Receiving Bank Name

Receiving Bank Phone Number

021000018
Receiving Bank Routing Number (ABA, IBAN or SWIFT code)

Receiving Bank Address (required for foreign bank)

8900631473
Account Number at Receiving Bank

Rye Select Broad Market Fund, LP
Name(s) on Receiving Bank Account (registration)

Address of Account Holder at Receiving Bank if Different from Schwab Account Registration (example: Brokerage Firm/Escrow Company)

Further Credit/Escrow Account Number (if applicable)

Escrow Company Phone Number

Name of Final Beneficiary (if applicable)

Address of Final Beneficiary (required if final beneficiary is different from Schwab account registration)

4. Please Read and Sign (Signatures required.)

Please note: I understand that wiring funds outside of the U.S. may take three to five business days.

I authorize Charles Schwab & Co., Inc. ("Schwab") to wire funds from my Schwab account pursuant to the above instructions. I agree to indemnify and hold harmless Schwab, its affiliates and their directors, officers, employees and agents from and against all claims, actions, costs and liabilities, including attorneys' fees, arising out of or relating to: (1) their reliance on this Letter of Authorization, and (2) Schwab's execution of IA's instructions.

Please note: If this is a Custodial account, I acknowledge and agree that any funds or securities transferred out of the account, and into the account of the custodian or other account, shall be used or applied solely for the benefit of the minor.

For standing instructions only: I understand that Schwab may accept future requests to wire funds from my Schwab account according to the above instructions. Such requests may be made by any person having signing authority with respect to my Schwab account and may be delivered orally, in person or by telephone, or may be transmitted by facsimile or delivered in a signed writing.

▶ Jane Mirande (signature) — Jane Mirande — Date 4/24/07
Signature: Account Holder/Trustee/Custodian/Executor — Print Name — (mm/dd/yyyy)

▶ (signature) — Richard Mirande — Date 4/24/07
Signature: Additional Account Holder/Co-Trustee/Co-Custodian/Co-Executor — Print Name — (mm/dd/yyyy)

▶ ______ ______ Date ______
Signature: Investment Advisor (if applicable) — Print Name — (mm/dd/yyyy)

Note: Investment Advisor may sign only if the account holder has granted disbursement authority AND there is a final beneficiary account number whose registration is IDENTICAL to the Schwab account registration.

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Schwab One® Trust Account of
R MIRANDE & J MIRANDE TTEE

Account Number
1064-6081

Statement Period
April 1-30, 2007

Transaction Detail - Purchases & Sales (continued)

Mutual Funds Activity (continued)

Settle Date	Trade Date	Transaction	Description	Quantity	Unit Price	Total Amount
04/27/07	04/26/07	Sold	LEUTHOLD CORE INVESTMENT FUND: LCORX	(402.6170)	19.8700	8,000.00
04/27/07	04/26/07	Sold	PERMANENT PORTFOLIO: PRPFX	(530.5040)	33.9300	18,000.00
04/27/07	04/26/07	Sold	PRUDENT BEAR FUND: BEARX	(3,350.9700)	5.6700	19,000.00
04/27/07	04/26/07	Sold	QUAKER STRATEGIC GROWTH CLASS A FUND: QUAGX	(950.8060)	24.1900	23,000.00
04/27/07	04/26/07	Sold	RYDEX INVERSE GOVT LONG BOND INV CL: RYJUX	(1,435.1610)	19.5100	28,000.00
04/27/07	04/26/07	Sold	SCHWAB HEDGED EQUITY FUND SELECT SHARES: SWHEX	(1,400.7310)	16.4200	23,000.00
Total Mutual Funds Activity						356,900.10
Total Purchases & Sales						356,900.10

Transaction Detail - Deposits & Withdrawals

Transaction Date	Process Date	Activity	Description	Location	Credit/(Debit)
* 04/27/07	04/27/07	Funds Paid	WIRED FUNDS DISBURSED		(500,000.00) *12
Total Deposits & Withdrawals					(500,000.00)

Transaction Detail - Dividends & Interest (including Money Market Fund dividends reinvested)

Transaction Date	Process Date	Activity	Description	Credit/(Debit)
04/02/07	04/02/07	Cash Dividend	PROSHARES SHORT S&P 500	265.13

Please see "Endnotes for Your Account" section for an explanation of the endnote codes and symbols on this statement.

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